

No. PD-0545-20

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS

FILED
COURT OF CRIMINAL APPEALS
8/5/2021
DEANA WILLIAMSON, CLERK

KEVIN RATLIFF,
Appellant

V.

THE STATE OF TEXAS,
Appellee

Appeal from No. 03-18-00569-CR in the
Third Court of Appeals, Austin
Trial Court No. CR7557
424th Judicial District Court of Llano County, Texas

**State's Motion for Leave to File Reply to
Appellant's Post-Submission Arguments and Authorities**

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

Comes now, The State of Texas, Appellee in the above styled and numbered cause, by and through the 33rd and 424th District Attorney, the Honorable Wiley B. McAfee, and files this "State's Motion for Leave to File Reply to Appellant's Post-Submission Arguments and Authorities," and in support thereof would show this Honorable Court as follows:

At oral argument on this matter, the Court raised a question regarding

the case of *Lange v. California*,¹ which was then pending in the United States Supreme Court. The Supreme Court issued its opinion in *Lange* on June 23, 2021, after this case had been submitted to this Court on oral argument. Appellant has submitted Post-Submission Arguments and Authorities, which amounts to additional briefing under Rule 70.4 of the Texas Rules of Appellate Procedure. We think the Court would benefit from our reply, and hereby respectfully move the Court, pursuant to Rule 70.4, to permit the filing of our Reply to Appellant's Post-Submission Arguments and Authorities, which we submitted on August 3, 2021.

Our reply addresses items raised by Appellant after this case was submitted on oral argument, and specifically responds to his arguments regarding the effect of *Lange v. California* on this Court's analysis. The State's reply was not submitted for purposes of delay, but to assist the Court in analyzing questions the parties were unable to address at oral argument.

The State's reply contains 2,217 words, leaving the State's total briefing at 14,333 words.

Prayer

WHEREFORE, PREMISES CONSIDERED, the State prays this Honorable Court grant this Motion for Leave to File our Reply to

¹ 549 U.S. ___, 141 S. Ct. 2011 (No. 20-18, June 23, 2021)

Appellant's Post-Submission Arguments and Authorities, submitted to this Court on August 3, 2021, and consider the post-submission argument and authorities contained therein.

Respectfully submitted,

OFFICE OF THE DISTRICT ATTORNEY
33rd and 424th JUDICIAL DISTRICTS

Wiley B. McAfee, District Attorney
1701 E. Polk, Ste. 24
Burnet, TX 78611
Telephone: 512-756-5449
Facsimile: 512-756-8572

/s/ R. Blake Ewing

R. Blake Ewing
Assistant District Attorney
State Bar No. 24076376
Attorney for the State of Texas, Appellee

CERTIFICATE OF SERVICE

This is to certify that a true copy of the above and foregoing instrument, together with this proof of service thereof, has been forwarded on the 4th day of August, 2021, to John G. Jasuta and David A. Schulman, Attorneys for Appellant, by email at lawyer1@johnjasuta.com and zdrdavid@dauidschulman.com, respectively, via the electronic service function provided by the efiletexas.gov website.

/s/ R. Blake Ewing

R. Blake Ewing
Assistant District Attorney

Automated Certificate of eService

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Robert Ewing
Bar No. 24076376
bewing@burnetcountytexas.org
Envelope ID: 56019702
Status as of 8/5/2021 8:54 AM CST

Associated Case Party: Kevin Ratliff

Name	BarNumber	Email	TimestampSubmitted	Status
John G.Jasuta		lawyer1@johnjasuta.com	8/5/2021 7:39:38 AM	SENT
David A.Schulman		zdrdavid@davidschulman.com	8/5/2021 7:39:38 AM	SENT
Robert A.Daniel		robert.daniel@rdlawaustin.com	8/5/2021 7:39:38 AM	SENT

Associated Case Party: The State of Texas

Name	BarNumber	Email	TimestampSubmitted	Status
Blake Ewing		bewing@burnetcountytexas.org	8/5/2021 7:39:38 AM	SENT
Stacey M.Soule		stacey.soule@SPA.texas.gov	8/5/2021 7:39:38 AM	SENT
Wiley McAfee		w.mcafee@co.lano.tx.us	8/5/2021 7:39:38 AM	SENT

Associated Case Party: State Prosecuting Attorney

Name	BarNumber	Email	TimestampSubmitted	Status
Stacey Soule		information@spa.texas.gov	8/5/2021 7:39:38 AM	SENT